

CHEROKEE DELEGATION.

MEMORIAL

OF

THE CHEROKEE DELEGATION,

Submitting the memorial and protest of the Cherokee people to Congress.

APRIL 9, 1838.

Laid on the table.

To the honorable the Senate and House of Representatives of the United States in Congress assembled :

The undersigned delegation from the Cherokee nation most respectfully beg leave to submit the accompanying memorial, bearing fifteen thousand six hundred and sixty-five signatures of the Cherokee people, together with some papers annexed, which have just been despatched to the delegation by express from their constituents. To these documents the attention of your honorable bodies is respectfully requested ; and, as in duty bound, your memorialsts will ever pray.

JOHN ROSS,
R. TAYLOR,
EDWARD GUNTER,
ELIJAH HICKS,
JAMES BROWN,
SAMUEL GUNTER, his + mark.
SITEWAKEE, his + mark.
PHITE PATH, his + mark.

WASHINGTON CITY, March 12, 1838.

To the honorable the Senate and House of Representatives of the United States in Congress assembled :

MOST HUMBLY AND MOST RESPECTFULLY SHEWETH :

That whereas we the undersigned, citizens of the Cherokee nation, have always regarded the instrument purporting to be a treaty made in December, 1835, at New Echota, by the Rev. John F. Schermerhorn and certain unauthorized individual Cherokees, to be a violation of the fundamental

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principles of justice, and an outrage on the primary rules of national intercourse, as well as of the known laws and usages of the Cherokee nation; and, therefore, to be destitute of any binding force on us: And whereas, at a general council of the nation, held at Red Clay, in September, 1836, our sentiments were set forth, and our solemn protest entered against it: And whereas, at a subsequent general council of the nation, held at Red Clay, in August, 1837, a communication from the President of the United States, on the subject of said instrument, was delivered in full council by Colonel John Mason, special agent of the United States: And whereas, after mature deliberation on the said communication, the resolutions of the preceding council, in reference to that compact, were reaffirmed, together with the memorial which accompanied the same: And whereas we entertained the belief that, through the medium of the special agent's report, the President would become correctly informed of the true state of the matter, and of the real sentiments of the Cherokee people: We therefore cherished the confident hope that he would abrogate that fraudulent instrument, and at once enter into arrangements with us for the adjustment of all difficulties. With these views, we then appointed a delegation to represent us before the Government of the United States, and vested them with full powers to make final arrangements of all matters in controversy; and we were animated with the prospect of a speedy termination of our distresses. But the cup of hope is dashed from our lips; our prospects are dark with horror; and our hearts are filled with bitterness. Agonized with these emotions, language fails; our tongues falter as we approach the bar of your august assemblies, before whom we again beg leave humbly to present our grievances.

With the full details of our troubles, we forbear to trespass on your indulgence. They are extensively known, and our delegation now at Washington will be found ready to furnish any information which may be needed. We therefore respectfully present the following, which will show the appalling circumstances in which we are placed by the operation of that perfidious compact.

A communication has recently issued from the United States agency, addressed to the chiefs, headmen, and people, of the Cherokee nation, in which we are told that "the Executive has formally declined all intercourse or correspondence with Mr. Ross, in relation to the treaty," and "that an end has been put to all negotiation upon the subject." "That it is the unalterable determination of the President to execute the treaty." "The time cannot possibly be prolonged." "Another day beyond the time named cannot and will not be allowed you." The writers say, "We will not attempt to describe the evils that may fall upon you, if you are still obstinate, and refuse to conform to the requirements of the treaty;" "we will not paint the horrors that may ensue in such an event." It will be readily conceived that declarations like these, emanating from such a source, our country already filled with troops, cannot fail to fill our minds with consternation and surprise. What have we done to merit such severe treatment? What is our crime? Have we invaded any one's rights? Have we violated any article of our numerous treaties? Have we, in any manner, acted in bad faith? We are not even charged with any such thing. But we are accused of "laboring under a danger-

ous error," and of being "duped and deluded by those in whom we have placed implicit confidence." Your pretended friends, say they "have proved themselves your worst enemies." But what is our "dangerous error?" What is our delusion? Is it a delusion to be sensible of the wrongs we suffer? Is it a "dangerous error" to believe that the great nation, whose representatives we now approach, will never knowingly sanction a transaction originated in treachery, and to be executed only by violence and oppression? It cannot be. Is it a delusion to assert that the makers of that ill-omened compact were destitute of authority? This fact we are prepared to prove by incontestable evidence. Indeed, it is virtually admitted by the parties themselves. And the very fact that an armed force should be put in requisition, to defend their persons and to compel our submission, argues, not obscurely, a defect of confidence in the validity of the compact. Is it obstinacy to refuse our assent to an act which is a flagrant violation of the first principles of free government, and which sets foot on the neck of our liberties and our dearest rights? Are we to be thus frowned into silence for attempting to utter our complaints in the ear of our lawful and covenanted protector? Is it a crime to confide in our chiefs, the men of our choice, whom we have tried and found faithful? We would humbly ask, in whom should we confide? Surely, not in those who have, in the face of our solemn injunctions, and in opposition to the reiterated expression of our sentiments, conspired the ruin of our country, usurped the powers of the nation, framed the spurious compact, and by artifice and fraud palmed it on the authorities of the United States, and procured for it the recognition of those high functionaries.

And now, in the presence of your august assemblies, and in the presence of the Supreme Judge of the Universe, most solemnly and most humbly do we ask, are we, for these causes, to be subjected to the indescribable evils which are designed to be inflicted on us? Is our country to be made the scene of the horrors which the commissioners will not paint?

For adhering to the principles on which your great empire is founded, and which has advanced it to its present elevation and glory, are we to be despoiled of all we hold dear on earth? Are we to be hunted through the mountains, like wild beasts, and our women, our children, our aged, our sick, to be dragged from their homes like culprits, and packed on board loathsome boats, for transportation to a sickly clime?

Already are we thronged with armed men; forts, camps, and military posts of every grade, already occupy our whole country. With us, it is a season of alarm and apprehension. We acknowledge the power of the United States; we acknowledge our own feebleness. Our only fortress is, the justice of our cause. Our only appeal, on earth, is to your tribunal. To you, then, we look. Before your honorable bodies, in view of the appalling circumstances with which we are surrounded, relying on the righteousness of our cause, and the justice and magnanimity of the tribunal to which we appeal, we do solemnly and earnestly protest against that spurious instrument.

And we do hereby also respectfully reaffirm, as a part of this our memorial, the resolutions and accompanying memorials of the two last general councils of the nation, held at Red Clay. Our minds remain un-

altered. We never can assent to that compact; nor can we believe that the United States are bound, in honor or in justice, to execute on us its degrading and ruinous provisions.

It is true, we are a feeble people; and, as regards physical power, we are in the hands of the United States; but we have not forfeited our rights, and if we fail to transmit to our sons the freedom we have derived from our fathers, it must not be by an act of suicide, it must not be with our own consent.

With trembling solicitude and anxiety, we most humbly and most respectfully ask, will you hear us? Will you extend to us your powerful protection? Will you shield us from the "horrors" of the threatened storm? Will you sustain the hopes we have rested on the public faith, the honor, the justice, of your mighty empire? We commit our cause to your favor and protection. And your memorialists, as in duty bound, will ever pray.

Signed by fifteen thousand six hundred and sixty-five of the Cherokee people, as will appear by referring to the original, submitted to the Senate by the Cherokee delegation.

CHEROKEE NATION, *February 22, 1838.*

WAR DEPARTMENT, OFFICE OF INDIAN AFFAIRS,

December 13, 1837.

SIR: I have the honor to transmit copies of a recent correspondence between Mr. Mason, on behalf of the United States, and Mr. Ross and other delegates, of the Cherokees. You will please to give it all possible publicity, that the Cherokees may distinctly understand their situation and prospects. While it exhibits the ardent desire of the Government to conciliate and satisfy all parties, it manifests the unalterable determination of the Executive to execute the treaty.

It also demonstrates that the Cherokees have been misled and betrayed by those in whom they confided.

Very respectfully, your obedient servant,

C. A. HARRIS.

To Gen. NAT. SMITH,
Calhoun, Tennessee.

CHEROKEE AGENCY, *December 28, 1837.*

To the Chiefs, Headmen, and People, of the Cherokee nation.

FRIENDS: Our official relation to the Cherokee people imposes it upon us, as a duty, to make you acquainted with the true state of your affairs, and with what the Government of the United States will require at your hands. We have long since been convinced that many of you are laboring under a dangerous error, and that you have been duped and deluded by those in whom you have placed implicit confidence. In the 16th article of the treaty of December 29, 1835, it is stipulated that the Cherokees "*shall remove to their new homes within two years from the rati-*

fication of the treaty ;” and this having occurred on the 23d of May, 1836, you have now, after wasting opportunities, only the short period of less than five months for the settlement of your affairs here, and the preparation for your removal to your new homes. Do not deceive yourselves into a belief, in the false hope held out to you, that longer time will be given. The treaty will be executed, without change or alteration, and another day beyond the time named cannot or will not be allowed to you. Your own safety, your own interests, require that you should abandon all idea of change, and set at once about the settlement of your affairs, and make your arrangements for speedy emigration. Rely no longer on the specious promises of delegations at Washington ; they have known for more than a year that no exertion or artifice of theirs could effect the slightest change in your position ; and even if they *have* entertained a hope *heretofore* on the subject, they can *now* be no longer in doubt. The Government has distinctly informed Mr. Ross that *no alteration* whatever would be made, and that the Cherokees *must* abide by the terms of the treaty of 1835 ; the Executive has formally declined all further intercourse or correspondence with Mr. Ross in relation to the treaty, and an end has been put to all negotiation upon the subject. These are truths ; we, who are your friends, repeat that you have been grossly deceived and deluded ; your *pretended* friends have proved themselves to be your worst enemies. They have subjected you to pecuniary losses already ; still, however, you have time and opportunity to prevent greater losses ; and we entreat you, for the sake of your families and your nation, to delay not a moment longer in availing yourselves of the advantages and privileges offered to you under the treaty. For your houses, your fields, &c., you will receive generous prices, in good money ; ample remuneration will be given to you for all losses you have sustained at the hands of your white neighbors ; the expenses of your journey to your new homes will be paid by the Government, and on your arrival west of the Mississippi, you will be put in possession of lands infinitely superior to those you will leave. You will get in exchange for your steril, worn-out fields, lands remarkable for their fertility, and unsurpassed in productiveness by those of any other portion of North America. Your homes will be among your own people ; your old friends and neighbors will be again around you ; you will no longer be annoyed and harassed by crafty and avaricious white men ; but you will have a country of your own, where you will be protected from depredation and molestation, and where your only neighbors will be men of your own race. You will no longer be surrounded on all sides, as you have been, by a different people ; the redmen of the country will be your neighbors. You will again be the inhabitants of an Indian land, and your tribe may again attain its high standing among the nations of the earth. Your own laws, administered by your own people, will form your rule of right ; and you will become, what you never could be east of the Mississippi, a free, great, prosperous, and happy people !

We have told you that *five months* of the time agreed upon in the treaty for your removal only remain. That time cannot possibly be prolonged. The people of the States which surround you would require your removal at the time designated, even if the General Government would allow you to remain no longer ; nor could you be protected in your viola-

tion of the treaty. The Commissioner of Indian Affairs, in a letter written at Washington on the 13th of this month, has requested us to "make you distinctly understand your situation and prospects." He tells us that it has been the "anxious desire of the Government to conciliate and satisfy all parties," and that every effort has been made to effect this object, but in vain. He says "that the Cherokees have been misled and betrayed by those in whom they confided," but adds that "it is the UNALTERABLE DETERMINATION of the President to *execute the treaty*."

You have been told by some that Mr. Ross would get back so much of your country as is situated in the States of Tennessee, North Carolina, and Alabama; and that you would be required to give up only such of your lands and possessions as are within the State of Georgia. Mr. Ross may have been sincere in his belief that he could effect this alteration; but he was mistaken. He has *asked* the Government to make this change in the terms of the treaty; and he was *answered* with a positive and unqualified refusal. Mr. Ross, in his zeal upon the subject, may have deceived himself; but he is now fully convinced of his error; and, in a letter written by him to Colonel Mason, an agent of the Government, dated at Washington, the 6th of the present month, he says "*we have nothing now to do but patiently to submit ourselves to the requirements of the Government*." He says this, after acknowledging that the Government has plainly told him "*that the Cherokees must at all events remove to the lands set apart for them in the West*."

Delay, then, no longer. The large sums of money due to you, under the liberal provisions of the treaty, are now ready for your acceptance. The commissioners appointed to execute the treaty are prepared to furnish you with all information touching the value of your improvements, and will cheerfully render you every assistance in the settlement of your affairs. They will advance you, upon the sums coming to you for your valuations, money enough to provide yourselves with every comfort on your journey to Arkansas, and the balances due to you will be paid in silver and gold, immediately after your arrival West. You have no occasion to employ any person to attend to your business; your personal application will enable you to obtain ample satisfaction. Your own people are the interpreters at the offices of the agents of the Government; they will make known your requests and wishes, and you will be subjected to no delay or difficulty to obtain a full hearing and ample justice.

We will not attempt to describe the evils that may fall upon you if you are still obstinate, and refuse to conform to the requirements of the treaty; we will not paint the horrors that may ensue in such an event; but we do earnestly beseech you to save yourselves from the dangers to which your obstinacy may expose you. We are not your enemies; we respect and regard you as the citizens of a great and honorable nation; and our solicitude for your prosperity and respectability impels us to urge you to avail yourselves at once of the great and exalted privileges held out to you, and to be no longer false to your own interests as a nation and as men. Shake off the influence of treacherous advisers and counselors; do not believe the stories they put in circulation to deceive and ruin you; but be men, and accept the advantages which the Government offers to you. Place confidence no longer in men who boast of their ability to do *impossible* things; but as you value your lives, the lives of

your families, and your existence as a nation, fail not to take the advice we have now given to you.

JOHN KENNEDY,
TH. W. WILSON,
U. S. Commissioners.
NAT. SMITH,
Sup't Cherokee removal.

AT FULLER'S HOTEL, (8 o'clock, A. M.,)

March 10, 1838.

SIR: At 2 o'clock this morning I arrived in Washington, deputed by our people to place in your hands the accompanying protest, signed by fifteen thousand six hundred and sixty-five of them, which they desire their delegation to present as soon as possible to Congress, in the name of the Cherokee nation.

I have the honor to be, sir, your obedient, humble servant,
LEWIS W. HILDEBRAND.

To Mr. JOHN ROSS,
Principal Chief of the Cherokee nation.